

IN RE: Petition of Brookside Sewer District, ) ORDER  
Inc. and Frank M. Nutt for Approval of ) APPROVING  
the Transfer of Assets and Authority. ) TRANSFER

Brookside Sewer District was a sole proprietorship that began providing sewer collection and treatment service to the residents of Brookside Village Subdivision in the early 1970's. The assets of Brookside Sewer District were acquired by Frank M. Nutt in the mid-1980's. Mr. Nutt is the present owner of Brookside Sewer District and operates as a sole proprietorship, and the property and authority of Brookside Sewer District are currently held by Mr. Nutt. Mr. Nutt has created a South Carolina corporation known as Brookside Sewer District, Inc., of which Mr. Nutt is the sole shareholder. Mr. Nutt requests approval from the Commission to transfer the sewerage lines within the Brookside Village Subdivision, other associated infrastructure and sewerage

collection service assets, and authority to provide service from Frank M. Nutt to Brookside Sewer District, Inc.

The Petition also requests approval to transfer the Brookside Wastewater Treatment Plant and associated real estate from Frank M. Nutt to the Spartanburg Sanitary Sewer District (SSSD). Mr. Nutt has entered into an agreement with SSSD to transfer the Brookside Wastewater Treatment Plant and the associated real estate to SSSD, and the transfer was made subject to approval by this Commission. As part of the transfer agreement, SSSD has agreed to manage the wastewater treatment plant and to provide bulk treatment service to Brookside Sewer District.

The Petitioners advise the Commission that the bulk treatment is based upon the aggregate water usage of the Brookside Village Subdivision. The Petitioners also inform the Commission that the cost for bulk treatment will be a cost of doing business for Brookside on a going forward basis and that approval of the Petition will not result in any immediate change in Brookside's currently approved rates. The Petitioners also offer that the requested transfers will be seamless and virtually transparent to the Brookside customers.

According to the Petition, the public interest will be served by the transfers as SSSD intends to use its investment in the Brookside Wastewater Treatment Plant to offer sewerage treatment services to the surrounding area where such services have not been available. The Petitioners also offer that the availability of

the additional sewerage treatment services will spur economic development in the area and will aid the environment by eliminating existing septic tanks and other undesirable discharges.

The Commission has examined this matter and believes that the transfers should be approved. The Commission is cognizant of the fact that 26 S.C. Code Ann. Regs. 103-504 (1976) requires notice and a hearing in matters of this type. However, the Commission is also cognizant that 26 S.C. Code Ann. Regs. 103-501 (1976) provides for waiver of the Commission's regulations where compliance with any of the regulations introduces unusual difficulty. In such cases, regulations may be waived by the Commission upon a finding by the Commission that such waiver is in the public interest.

The Commission has carefully examined the matter at hand and believes that unusual difficulty would result if the notice and hearing provisions of the regulations were carried out. The Commission believes, and so finds, that it is in the public interest to waive the notice and hearing regulations in this matter. The Commission notes that Mr. Nutt testified at a January 11, 1996, rate hearing about changing the status of Brookside Sewer District from a sole proprietorship to a corporation. Additionally, the Commission observes that the requested transfers are transparent to the customers and will have no additional impact on rates.

Accordingly, the Commission approves (1) the transfer of the collection infrastructure, Certificate of Public Convenience and Necessity, and associated assets of Brookside from Frank M. Nutt to Brookside Sewer District, Inc. and (2) the transfer of the Brookside Wastewater Treatment Plant and associated real property from Frank M. Nutt to SSSD. The Commission instructs Brookside Sewer District, Inc. to notify the Commission Staff when SSSD begins treatment of the Company's wastewater. Staff is instructed to monitor the Company's expenses and to schedule a compliance audit at the appropriate time in order to monitor the Company's expenses and operating margin.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)